

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

Evgeny A. Freidman, Vladimir Basin, :
Mamed Dzhaniyev, Victory Taxi Garage :
Inc., Tunnel Taxi Management LLC, :
Downtown Taxi Management LLC, Bazar :
Taxi Inc., Patron Taxi LLC, Grappa Taxi :
LLC, Tequila Taxi LLC, Jack Daniels :
Taxi, LLC, Murzik Taxi Inc., Malinka :
Taxi Inc., Yagodka Taxi Inc., Persik Taxi :
Inc., Bratishka Taxi Inc., Pumo Taxi Inc., :
Piguet Inc., Kormilitsa Taxi Inc., Prada :
Taxi Inc., Student Taxi Inc., Hublot Taxi :
Inc., Torpedo Taxi Inc., Black Label Taxi :
LLC, Praga Taxi Inc., Two Hump Taxi, :
LLC, Kroshka Taxi Inc., Lacoste Taxi :
Inc., Sangria Taxi LLC, Volba Taxi Inc., :
:

Civil Action No. 1:08-CV-02458-SAS

SDNY ECF FILING

Plaintiffs, :

-against- :

General Motors Corp., ElDorado :
National, Inc. and Arcola Sales & Service :
Corp., :

Defendants. :

:

**ANSWER OF GENERAL MOTORS CORPORATION TO CROSS-CLAIM OF
ARCOLA SALES & SERVICE CORPORATION**

Defendant General Motors Corporation (hereinafter "General Motors") submits its answer to the Cross-Claim of Arcola Sales & Service Corporation (hereinafter "Arcola") and avers as follows:

JURISDICTION AND VENUE

1. Denied.

2. Denied.

ANSWER TO FIRST COUNT

3. General Motors is without knowledge or information sufficient to form a belief about the truth of any averments set forth in Arcola's responses and affirmative defenses to the Verified Complaint.

4. General Motors is without knowledge or information sufficient to form a belief about the truth of any averments set forth in paragraph 4 of Arcola's Cross-Claim.

5. Denied. General Motors is a Delaware corporation, maintains its principal place of business in Detroit, Michigan, and is in the business of designing, manufacturing in part, assembling and selling motor vehicles to authorized dealers.

6. General Motors is without knowledge or information sufficient to form a belief about the truth of any averments set forth in paragraph 6 of Arcola's Cross-Claim.

7. Denied.

8. General Motors is without knowledge or information sufficient to form a belief about the truth of any averments set forth in paragraph 8 of Arcola's Cross-Claim.

9. General Motors is without knowledge or information sufficient to form a belief about the truth of any averments set forth in paragraph 9 of Arcola's Cross-Claim.

10. General Motors is without knowledge or information sufficient to form a belief about the truth of any averments set forth in paragraph 10 of Arcola's Cross-Claim.

11. General Motors is without knowledge or information sufficient to form a belief about the truth of any averments set forth in paragraph 11 of Arcola's Cross-Claim.

12. General Motors is without knowledge or information sufficient to form a belief about the truth of any averments set forth in paragraph 12 of Arcola's Cross-Claim.

13. Denied as to General Motors Corporation.
14. Denied as to General Motors Corporation.

ANSWER TO SECOND COUNT

15. General Motors incorporates by reference its responses set forth in paragraphs 1 through 10 above.

16. Denied as to General Motors Corporation.

ANSWER TO THIRD COUNT

17. General Motors incorporates by reference its responses set forth in paragraphs 1 through 12 above.

18. Denied as to General Motors Corporation.
19. Denied as to General Motors Corporation.

ANSWER TO CLAIM FOR CONTRIBUTION

General Motors denies that Arcola possesses or can establish a right to contribution on any tort action that may have been asserted by plaintiffs.

AFFIRMATIVE DEFENSES

First Affirmative Defense

Arcola's claims may be barred by the statute of frauds.

Second Affirmative Defense

Arcola's claims may be barred by the doctrine of unclean hands.

Third Affirmative Defense

Arcola's claims may be barred by failure of consideration.

Fourth Affirmative Defense

Arcola's claims may be barred by failure of a condition precedent to any remedy sought against General Motors.

Fifth Affirmative Defense

Arcola may have failed to mitigate its alleged damages, if any.

Sixth Affirmative Defense

General Motors hereby reserves the right upon completion of investigation and discovery, which is ongoing and incomplete, to file such additional affirmative defenses, counterclaims and/or third party complaints as may be appropriate.

WHEREFORE, General Motors demands the entry of judgment in its favor and against Arcola with respect to all counts together with costs of suit and such other relief as the Court deems just.

Dated: New York, New York
May 21, 2008

Respectfully submitted,

LAVIN, O'NEIL, RICCI, CEDRONE & DISIPIO

BY: s/Timothy J. McHugh

Timothy J. McHugh (3393)
420 Lexington Avenue
Suite 2900
New York, NY 10170
Telephone No. (212) 319-6898
Facsimile No. (212) 319-6932
E-mail: tmchugh@lavin-law.com

Of Counsel:

Joseph E. O'Neil
John J. O'Donnell
190 North Independence Mall West
6th & Race Streets, Suite 500
Philadelphia, PA 19106
Telephone No. (215) 627-0303
Facsimile No. (215) 627-2551
E-mail: joneil@lavin-law.com
E-mail: jodonnell@lavin-law.com

*Attorneys for Defendant,
General Motors Corporation*

1129501v1

AFFIDAVIT OF SERVICE BY MAIL

STATE OF NEW YORK)
COUNTY OF NEW YORK)
ss.:)

JOANNE PETERS, being duly sworn, deposes and says:

Deponent is not a party to the action, is over 18 years of age and resides in Fairfield County, Connecticut.

On May 21, 2008 deponent served the within Notice of Answer of General Motors Corporation to the Cross-Claim of Arcola Sales & Service Corporation upon:

William Fried, Esquire
Herrick, Feinstein, LLP
2 Park Avenue
New York, NY 10016
212-592-1400
Attorneys for Plaintiffs

Jamison A. Diehl, Esq.
Akin Gump Strauss Hauer & Feld, LLP
590 Madison Avenue
New York, NY 10022-2525
212-872-8054
Attorneys for Eldorado National, Inc.

Christopher E. Hartmann, Esq.
Wacks & Hartmann, LLC
55 Madison Avenue
Suite 320
Morristown, NJ 07960
973-644-0770
Attorneys for Arcola Sales & Service Corp.

at the addresses designated by said attorneys for that purpose by depositing a true copy of same enclosed in a postpaid properly addressed envelope in an official depository under the exclusive care and custody of the United States Postal Service within the State of New York.

Sworn to before me this
21st day of May, 2008,

Notary Public

TRACEY WHISNANT
Commissioner of Deeds
City of New York - No. 4-5369
Certificate Filed in New York County
Commission Expires May 1, 2010